



# State of New Mexico

## *Office of the Governor*

Bill Richardson  
Governor

### EXECUTIVE ORDER 2007-050

#### WATER CABINET

**WHEREAS**, a clean and safe water supply is essential for maintaining the unique natural resources, the quality of life and the economic vitality of the State, and it is imperative to invest wisely to meet those needs;

**WHEREAS**, New Mexico's population and economy are expected to grow substantially within the century, increasing the demand for water and wastewater systems and increasing the need for efficient systems that will extend existing water supplies;

**WHEREAS**, New Mexico's existing organizational structure, planning, and funding mechanisms lack uniform and consistent lines of accountability, authority, policy direction and collaboration that make it difficult to comprehensively plan and manage water and wastewater infrastructure investments that are necessary to meet the State's current and future needs;

**WHEREAS**, water and wastewater systems across the State are deteriorating and in need of repair or replacement with modern infrastructure to maintain safe and reliable water supplies for the State's current and future needs;

**WHEREAS**, funding at all levels of government should be subject to comprehensive review and coordinated planning to ensure efficient use of our water resources;

**WHEREAS**, the New Mexico Environment Department – Drinking Water Bureau has federal primacy for requirements under the federal Safe Drinking Water Act and must ensure that all public water systems comply with federal and state safe drinking water standards, and currently has staff physically located in every region of the State;

**WHEREAS**, the New Mexico Environment Department – Water and Waste Management Division has primacy for requirements under the Water Quality Act to ensure that all public wastewater systems comply with federal and state clean water standards;

**WHEREAS**, the Office of State Engineer – is charged with adjudicating, regulating and monitoring water rights to all public and private water systems, and currently has staff physically located in every region in the State;

**WHEREAS**, the Interstate Stream Commission is authorized to investigate water supply, and to develop, conserve, and protect the waters of the State;

**WHEREAS**, the Interstate Stream Commission, in collaboration with the Office of the State Engineer and the Water Trust Board, and in consultation with other government agencies as appropriate is charged with development, preparation and implementation of a comprehensive state water plan;

**WHEREAS**, the Department of Finance and Administration, the New Mexico Finance Authority, the New Mexico Environment Department and the Water Trust Board, are all empowered by law to fund or administer funding for water and wastewater infrastructure projects; and

**WHEREAS**, Executive Order 05-031 established the Water Infrastructure Investment Team to provide recommendations and advice regarding a long range plan for secure and sustainable water and wastewater infrastructure in New Mexico.

**NOW, THEREFORE**, I, Bill Richardson, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and Laws of the State of New Mexico, do hereby ORDER and DIRECT the following:

**I. Establishment of the Water Cabinet**

**A. Creation.** There is hereby created the Water Cabinet (hereinafter the "Cabinet").

**B. Purpose.** The purpose of the Cabinet is to ensure effective collaboration and consultation in the development and implementation of water policy by applicable state agencies. The Cabinet shall also ensure that the directives of this Executive Order are implemented and shall be responsible for providing periodic updates and reports to the Governor and the Water Trust Board.

**C. Membership.** The membership of the Water Cabinet shall be the Director of the Interstate Stream Commission, the State Engineer, the Secretary of the New Mexico Environment Department, the Secretary of the Agriculture Department, the Director of the New Mexico Department of Game and Fish, the Secretary of the Energy, Minerals and Natural Resources Department, the Secretary of the Department of Finance and Administration, the Chief Executive Officer of the New Mexico Finance Authority, and a representative of the Governor's Office. All members may appoint a designee to serve on their behalf, so long as the designee is approved in advance by the Chair of the Cabinet. The Chair of the Cabinet shall be appointed by the Governor.

**D. Duties.** The Cabinet shall:

1. Provide an annual report to the Governor and the Legislature, in August of each year, that outlines:
  - a. Steps taken to improve coordination and consultation in updating the State Water Plan and specifically addressing efforts to better align the State Water Plan with water, watershed, water and wastewater infrastructure development, and environmental regulatory policies, as well as state environmental and natural resources planning documents including, but not limited to the State Forest and Watershed Health Plan

- and the Comprehensive Wildlife Conservation Strategy for New Mexico;
- b. Policy recommendations for water and wastewater infrastructure development, consistent and coordinated funding of water and wastewater infrastructure, prioritization of such development, proper monitoring and oversight of water and wastewater projects receiving state and/or federal funds, and expansion of the management and fiscal capacity of local water and wastewater systems; and
  - c. Recommendations for identifying and addressing drinking water emergencies that arise from natural occurrences or infrastructure failure or other causes.
2. Provide final recommendations to the Governor on the proposed *water and wastewater infrastructure project evaluation plan*, the *uniform application implementation plan*, and the *recommendations for efficient and effective use of water and wastewater loan funds* within one month after receiving such proposals from the Sub-Cabinet.
3. Establish a Sub-Cabinet to:
- a. Develop and propose policy recommendations to the Cabinet for water and wastewater infrastructure development, consistent and coordinated funding of water and wastewater infrastructure, prioritization of such development, proper monitoring and oversight of water and wastewater projects receiving state and/or federal funds, expansion of the management and fiscal capacity of local water and wastewater systems;
  - b. Provide project funding recommendations to the many agencies that administer water and wastewater infrastructure financing programs;
  - c. Receive reports from funding and oversight agencies on the implementation of water and wastewater infrastructure projects, water and wastewater system capacity development efforts, and systems facing significant water quality and water supply threats; and
  - d. Performance of additional duties as set forth in further detail below.
4. Meet at least three times a year for purposes of developing an annual report to the Governor, promoting interagency coordination, prioritization, and consistent funding mechanisms on water policy and projects, and promoting a comprehensive approach to hydrological and ecological sustainability and maintaining adequate, high-quality supplies of fresh water for purposes consistent with the following non-exclusive list of values: residential, agricultural, wildlife, environmental, cultural and industrial.

## II. Establishment of the Sub-Cabinet

- A. Membership.** The Sub-Cabinet shall consist of the Secretary of the New Mexico Environment Department, the State Engineer, the Secretary of the Energy, Minerals and Natural Resources Department, the Secretary of the Department of Finance and Administration, and the Chief Executive Officer of the New Mexico Finance Authority. All members may appoint a designee to serve on their behalf, so long as the designee is approved in advance by the Chair of the Sub-Cabinet. The Chair of the Sub-Cabinet shall be appointed by the Chair of the Water Cabinet.

**B. Duties.** The Sub-Cabinet shall:

1. Meet at least six times per year unless otherwise directed by the Water Cabinet, and the Sub-Cabinet shall consider established funding cycles in scheduling said meetings.
2. Provide direction to the agencies and offices listed in sections III through VII herein, for an interagency effort to propose:
  - a. A methodology and plan for implementing the project evaluation recommendations of the Criteria for Water System Planning, Performance, and Conservation as a Condition for State Funding Report (November 3, 2005) as adopted by the Governor's Water Infrastructure Investment Team, hereinafter referred to as the *water and wastewater infrastructure project evaluation plan*;
  - b. The requirements and processes that will provide a single point of application for state grant or loan funding of water and/or wastewater infrastructure that will assist the State in efficiently and effectively allocating its resources and an implementation plan that coordinates the application with the Infrastructure Capital Improvement Plan process, hereinafter referred to as the *uniform application implementation plan*; and
  - c. Recommendations for increased efficiency, improved coordination, and improved oversight of the Drinking Water State Revolving Loan Fund and funds under the Wastewater Facility Construction Loan Act, hereinafter referred to as the Clean Water State Revolving Loan Fund and opportunities to improve the coordination of these federal loans with state funding programs, including but not limited to the Rural Infrastructure Program, the Water Project Fund, the Public Project Revolving Fund, and the Community Development Block Grant Program, hereinafter referred to as the *recommendations for efficient and effective use of water and wastewater loan funds*.
3. Receive from the agencies and offices listed in sections III through VII herein, periodic reports, no less than on a quarterly basis, on the following topics, as applicable to each state agency or office:
  - a. Implementation of water and wastewater infrastructure projects funded through direct appropriations, as well as through the following non-exclusive list of funds: the Water Innovation Fund, the Drinking Water State Revolving Loan Fund, the Clean Water State Revolving Loan Fund, the Rural Infrastructure Program, regional water supply projects administered by the Office of the State Engineer and/or the Interstate Stream Commission, the Community Development Block Grant Program, the Water Project Fund, the Public Project Revolving Fund, the Water and Wastewater Project Grant Fund, and the Local Government Planning Fund;
  - b. Expenditure of water and wastewater technical assistance and capacity development funds and the outcomes associated with such expenditures;

- c. Water or wastewater systems with safe drinking water or clean water violations considered a significant threat to the health and safety of the community; and
  - d. Identification of water supply systems with inadequate water supplies.
- 4. Review the following plans and recommendations submitted to the Sub-Cabinet by the agencies and offices assigned such responsibilities in sections III through VII herein, and make recommendations to the Cabinet for consideration in accordance with the following schedule:
  - a. The draft *water and wastewater infrastructure project evaluation plan* shall be submitted for consideration by the Cabinet no later than April 15, 2008;
  - b. The draft *uniform application implementation plan* shall be submitted for consideration by the Cabinet no later than April 15, 2008; and
  - c. The draft *recommendations for efficient and effective use of water and wastewater loan funds* shall be submitted for consideration by the Cabinet no later than October 15, 2008.
- 5. Make project funding recommendations directly to the agencies or offices responsible for administering funding for water and wastewater infrastructure projects, including water innovation projects, water and wastewater system planning and design, and management and fiscal capacity development assistance funded through direct appropriations, the Water Project Fund, the Drinking Water State Revolving Fund, the Rural Infrastructure Revolving Loan Fund, the Clean Water State Revolving Loan Fund, the Water and Wastewater Project Grant Fund, and the Local Government Planning Fund. Specifically, the Sub-Cabinet shall, in accordance with all existing legal obligations and existing Legislative appropriation authority, provide:
  - a. Recommendations for direct appropriations to the Department of Finance and Administration, by December 1 of each year, beginning December 1, 2008;
  - b. Recommendations for the issuance of loans and grants under the Water Project Fund to the New Mexico Finance Authority and the Water Trust Board in accordance with the annual funding cycle deadlines established for the Water Project Fund, beginning July 1, 2008;
  - c. Recommendations for the issuance of loans under the Drinking Water State Revolving Fund, the Water and Wastewater Project Grant Fund, and the Local Government Planning Fund to the New Mexico Finance Authority in accordance with the state and federal requirements of this fund, beginning July 1, 2008;
  - d. Recommendations for the issuance of loans under the Rural Infrastructure Revolving Loan Fund and the Clean Water State Revolving Fund in accordance with the state and federal requirements of these funds, beginning July 1, 2008.
- 6. Once the *water and wastewater infrastructure project evaluation plan*, the *uniform application implementation plan*, the *recommendations for efficient and effective use of water and wastewater loan funds*, and the project funding

recommendations are finalized, ensure the implementation of such plans and recommendations by all state funding entities.

### **III. Establishment of the Water and Wastewater Infrastructure Development Division within the New Mexico Environment Department**

- A. Creation.** Pursuant to the Executive Reorganization Act, NMSA 1978 §§ 9-1-1 et. seq. and the Department of Environment Act, NMSA 1978 §§ 9-7A-1 et seq., there is hereby created a new division within the New Mexico Environment Department entitled the Water and Wastewater Infrastructure Development Division. The Secretary of the New Mexico Environment Department, per his authority to establish organizational units within the Department as set forth in the aforementioned statutes, shall move the existing Construction Programs Bureau from the Administrative Services Division to the newly-created Water and Wastewater Infrastructure Development Division and shall move the existing Drinking Water Bureau from the Environmental Health Division to the newly-created Water and Wastewater Infrastructure Development Division.
- B. Division Director.** The Secretary of the Environment Department shall appoint, with the Governor's consent, a director to manage the Division of Water and Wastewater Infrastructure Development who shall be exempt from the Personnel Act, Sections 10-9-1 et seq. NMSA 1978, as amended, and shall serve at the pleasure of the Secretary and the Governor;
- C. Duties.** In addition to other responsibilities assigned by the Secretary, the Division shall implement and abide by the following directives, subject to applicable statutory and constitutional provisions:
1. Provide staff support to meetings of the Sub-Cabinet.
  2. Provide leadership for an interagency effort to develop a *water and wastewater infrastructure evaluation plan, a uniform application implementation plan, and recommendations for efficient and effective use of water and wastewater loan funds*. The Division shall chair and provide necessary administrative support for all interagency meetings to develop the plans and recommendations.
  3. The newly-created division, in collaboration with the agencies and offices assigned responsibilities for contributing to development of draft plans and recommendations in sections III through VII herein, shall submit such plans and recommendations to the Sub-Cabinet, in accordance with the following terms and schedule:
    - a. The draft *water and wastewater infrastructure project evaluation plan* shall be developed with leadership from the newly-created division of Water and Wastewater Infrastructure Development and in collaboration with the Water and Wastewater Management Division, the Office of the State Engineer, the Department of Finance and Administration, and the New Mexico Finance Authority and shall be submitted for consideration by the Sub-Cabinet no later than March 15, 2008;

- b. The draft *uniform application implementation plan* shall be developed with leadership from the newly-created division of Water and Wastewater Infrastructure Development and in collaboration with the Department of Finance and Administration and the New Mexico Finance Authority and shall be submitted for consideration by Sub-Cabinet no later than March 15, 2008; and
  - c. The draft *recommendations for efficient and effective use of water and wastewater loan funds* shall be developed with leadership from the newly-created division of Water and Wastewater Infrastructure Development and in collaboration with the Department of Finance and Administration and the New Mexico Finance Authority submitted for consideration by the Sub-Cabinet no later than September 15, 2008.
- 4. Provide specific expertise within the interagency effort to develop a *water and wastewater infrastructure project evaluation plan* by defining the project evaluation methodology for:
  - a. Rate setting;
  - b. Asset management; and
  - c. Compliance with safe drinking water statutes and regulations.
- 5. Provide at least quarterly reports to the Sub-Cabinet on the:
  - a. Implementation of water and wastewater projects funded through direct appropriations, as well as through the following non-exclusive list of funds: the federal Drinking Water State Revolving Loan Fund, the federal Clean Water State Revolving Loan Fund, and the Rural Infrastructure Program;
  - b. Water or wastewater systems with safe drinking water or water quality violations considered a significant threat to the health and safety of the community;
  - c. Water systems with inadequate water supplies; and
  - d. Expenditure of public water and wastewater technical assistance and capacity development funds and the outcomes associated with such expenditures.
- 6. Once finalized, administer the final uniform application process.
- 7. Make grant and loan funding recommendations to the Sub-Cabinet for water and wastewater infrastructure projects, including water innovation projects, water and wastewater system planning and design, and management and fiscal capacity development assistance based on the *water and wastewater infrastructure project evaluation plan*, analysis provided by other agencies, and the needs and priorities of local entities.
- 8. Oversee provision of capacity development and technical assistance to water and wastewater systems and align provision of assistance with the needs of entities eligible for and seeking project assistance from state agencies.

#### **IV. Collaboration Required of the Existing Water and Wastewater Management Division of the New Mexico Environment Department**

- A.** The Surface Water Quality Bureau and the Ground Water Quality Bureau within the existing Water and Wastewater Management Division of the New Mexico Environment Department shall implement and abide by the following directives, subject to applicable statutory and constitutional provisions.
1. Provide specific expertise within the interagency effort, referenced in Section III, to develop a *water and wastewater infrastructure project evaluation plan* by defining the project evaluation methodology for:
    - a. Compliance with water quality statutes and regulations.
  2. The Secretary of the New Mexico Environment Department shall direct appropriate staff within the division to provide analysis of clean water compliance of potential projects using the approved project evaluation methodology when requested by the newly-created Division of Water and Wastewater Infrastructure Development and subject to applicable statutory and constitutional provisions.

#### **V. Collaboration Required of the Office of the State Engineer.**

- A.** The Office of the State Engineer shall implement and abide by the following directives, subject to applicable statutory and constitutional provisions.
1. Provide specific expertise within the interagency effort, referenced in Section III, to develop a *water and wastewater infrastructure project evaluation plan* by defining the project evaluation methodology for:
    - a. Determining the status and adequacy of existing water rights.
  2. Provide at least quarterly reports to the Sub-Cabinet on:
    - a. Implementation of regional water supply projects administered by the Office of the State Engineer and/or the Interstate Stream Commission.
  3. Provide copies of such reports to the newly-created Division of Water and Wastewater Infrastructure Development within the New Mexico Environment Department.
  4. The State Engineer shall direct appropriate staff within the Office of the State Engineer to provide analysis of the status of existing water rights associated with potential projects using the approved project evaluation methodology when requested by the Division of Water and Wastewater Infrastructure Development and subject to applicable statutory and constitutional provisions.



## **VI. Collaboration Required of the Department of Finance and Administration.**

- A.** The Department of Finance and Administration shall implement and abide by the following directives, subject to applicable statutory and constitutional provisions
1. Provide specific expertise within the interagency effort, referenced in Section III, to develop a *water and wastewater infrastructure project evaluation plan* by defining the project evaluation methodology for:
    - a. Water and wastewater system governance.
  2. Provide quarterly reports to the Sub-Cabinet on:
    - a. Implementation of water and wastewater projects funded through direct appropriations, including any direct appropriations for innovative water projects and the Community Development Block Grant Program.
  3. Provide copies of such reports to the newly-created Division of Water and Wastewater Infrastructure Development within the New Mexico Environment Department.
  4. The Secretary of the Department of Finance and Administration shall direct appropriate staff within the Department of Finance and Administration to provide analysis of the local governance structure of potential projects using the approved project evaluation methodology when requested by the Division of Water and Wastewater Infrastructure Development.
  5. Develop in collaboration with the newly-created division at the New Mexico Environment Department and the New Mexico Finance Authority a draft *uniform application implementation plan* and draft *recommendations for efficient and effective use of water and wastewater loan funds*.

## **VII. Collaboration Required of the New Mexico Finance Authority.**

- A.** The New Mexico Finance Authority shall implement and abide by the following directives, subject to applicable statutory and constitutional provisions.
1. Provide specific expertise within the interagency effort, referenced in Section III, to develop a *water and wastewater infrastructure project evaluation plan* by defining the project evaluation methodology for:
    - a. Debt planning; and
    - b. Debt management.
  2. Provide quarterly reports to the Sub-Cabinet on:
    - a. Implementation of water and wastewater projects funded through the following non-exclusive list of funds: the Water Project Fund, the Drinking Water State Revolving Loan Fund, the Public Project Revolving

Fund, the Water and Wastewater Project Grant Fund, and the Local Government Planning Fund.

3. Provide copies of such reports to the newly-created Division of Water and Wastewater Infrastructure Development within the New Mexico Environment Department.
4. The Chief Executive Officer of the New Mexico Finance Authority shall direct appropriate staff within the New Mexico Finance Authority to provide analysis of the debt planning and management of potential projects using the approved project evaluation methodology when requested by the Division of Water and Wastewater Infrastructure Development.
5. Develop in collaboration with the newly-created division at the New Mexico Environment Department and the Department of Finance and Administration a draft *uniform application implementation plan* and draft *recommendations for efficient and effective use of water and wastewater loan funds*.

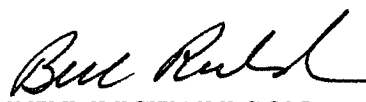
**THIS ORDER** supersedes Executive Order No. 2005-31 and any other previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until such time as it is rescinded by the Governor.

ATTEST:

  
MARY HERRERA  
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE THIS  
31<sup>ST</sup> DAY OF OCTOBER, 2007

WITNESS MY HAND AND THE GREAT SEAL  
OF THE STATE OF NEW MEXICO

  
BILL RICHARDSON  
GOVERNOR OF NEW MEXICO

